IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

CRP.No. 404 of 2005()

OP(ELE).52/2001 of ADDL. DISTRICT COURT, THODUPUZHA
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REVN. PETITIONER/RESPONDENT

KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY THE SECRETARY, K.S.E.BOARD,
THIRUVANANTHAPURAM.

BY ADV. SRI.N.N.SUGUNAPALAN, SC, KSEB

RESPONDENTS/ RESPONDENT

SASI S/O. MADHAVAN,
AGED 46 YEARS, THENGUMOOTTIL HOUSE,
KUTHUNKAL, MANIPPARA P.O.,
KONNATHODY VILLAGE, IDUKKI DISTRICT.

BY ADV. SRI.C.K.VIDYASAGAR
SRI.P.CHANDY JOSEPH

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 01/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PIUS.C.KURIAKOSE, J.

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C.R.P.No. 404 OF 2005

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Dated this the 1st day of August, 2007

ORDER

In this civil revision petition under Section 115 of the Civil Procedure Code, the Kerala State Electricity Board which was the respondent in O.P.(Ele)No.52/01 on the file of Additional District Judge, Muvattupuzha impugns the award of the District Judge granting a total amount of Rs. 68975 with interest as enhanced compensation to the respondent for the cutting and removal of tress and other improvements from the respondent's property situated at Konnathody for the purpose of drawal of 110KV electricity line. According to the petitioner-Electricity Board, the award and decree of the court below are not supported by legal evidence and that the court below went wrong in not placing reliance on Ext.P1, copy of the price list published by the Coffee Board. The evidence regarding price of coffee in the case is Ext.A1 and the court below without placing reliance on that has granted enhancement by more than 100% which according to the petitioner was exorbitant and unjustified. It is also the case of the petitioner that the deduction made by the KSEB towards maintenance

and cultivation expenses was reduced by the court below without any basis. Petitioner also contends that the judgment of the Full Bench in Kumba V. KSEB(2000(1)KLT 542) fixing the rate of return as 5% instead of 10% was not justified. Kumba's case according to the petitioner was not applicable to this case.

I have heard the submissions of Sri.N.N.Sugunapalan, learned standing counsel for the Electricity Board and those of Sri.Vidhyasagar, learned counsel for the respondent. Even though learned standing counsel would assail the award and decree of the court below on the various grounds raised in the civil revision petition, I do not find any warrant for invocation of the revisional jurisdiction of this court so as to correct the impugned order. The findings of the District Judge are based on materials available on record and the decision has been rendered on preponderance of probability. It is to be noticed that there is absolutely no counter evidence to the oral testimony of PW1, the respondent. Challenge against the impugned order accordingly fails and the Civil Revision Petition will stand dismissed.

PIUS.C.KURIAKOSE
JUDGE

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